

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELAINE GIBNEY,

Defendant.

CASE NO. C14-5969 BHS
C14-5970BHS

ORDER DENYING MOTIONS
FOR APPOINTMENT OF
COUNSEL

This matter comes before the Court on Defendant Elaine Gibney's ("Gibney") motions for a court appointed counsel (C14-5969, Dkt. 11 & C14-5970, Dkt. 10).

On December 30, 2014, Gibney filed the instant motions requesting that the court appoint her counsel in these forfeiture proceedings because she is unable to afford counsel. *Id.* Although a court, under 28 U.S.C. § 1915(e), can request counsel to represent a party, the court may do so only in exceptional circumstances. *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of

1 the party to articulate her claims *pro se* in light of the complexity of the legal issues
2 involved. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

3 In this case, the Court is unable to conclude that exceptional circumstances exist to
4 appoint counsel to represent Gibney. In her letter, Gibney states that her claims and/or
5 defenses are more equitable in nature rather than being legal in nature. She asserts that
6 the funds that the Government is attempting to seize are essential sources of income and
7 that she is diligently striving to make her restitution payments. These are not complex
8 claims and Gibney has filed detailed financial documents for the Court's consideration.
9 Therefore, the Court **DENIES** Gibney's motions for appointment of counsel.

10 **IT IS SO ORDERED.**

11 Dated this 3rd day of February, 2015.

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14 BENJAMIN H. SETTLE
15 United States District Judge
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